APR 27 1981

No. 80-1664

In The

Supreme Court of the United States

October Term, 1980

CONSUMERS UNION
OF UNITED STATES, INC., et al.,
Appellants,

v.

VIRGINIA STATE BAR, et al.,
Appellees.

On Appeal from the United States District Court for the Eastern District of Virginia

RESPONSE TO MOTION TO DEFER CONSIDERATION OF JURISDICTIONAL STATEMENT

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On January 8, 1981, the three-judge District Court ordered the Supreme Court of Virginia and its Chief Justice in his official capacity (herein referred to as the Virginia Supreme Court) to pay a reasonable sum to Consumers Union of United States, Inc. and Virginia Citizens Consumer Council (herein referred to as Appellants) as attorneys' fees. The District Court ruled that the Virginia State Bar was not liable to the Appellants for attorneys' fees because special circumstances existed which would render such an award unjust.

On January 28, 1981, the Virginia Supreme Court noticed its appeal from the order of the District Court to the United States Court of Appeals for the Fourth Circuit (herein referred to as the "Fourth Circuit") and to this Court. On February 4, 1981, the Appellants noticed their cross-appeal of the District Court's decision not to award attorneys' fees against the Virginia State Bar to the Fourth Circuit and to this Court. Both the Virginia Supreme Court and Appellants have informed the Fourth Circuit that they desire to pursue their appeals in that forum.

On March 30, 1981, the Virginia Supreme Court filed a Jurisdictional Statement and a Motion to Defer Consideration of Jurisdictional Statement with this Court. Appellants filed a Jurisdictional Statement for their cross-appeal on April 3, 1981 and a Motion to Defer Consideration of Jurisdictional Statement on April 10, 1981. Appellants have requested that the Court defer consideration of their Jurisdictional Statement should it grant the Motion to Defer Consideration of Jurisdictional Statement filed by the Virginia Supreme Court in the related appeal, *The Supreme Court of Virginia* v. *Consumers Union of United States, Inc.*, No. 80-1641.

The Virginia State Bar has no objection to deferral of consideration of the Jurisdictional Statement in the instant appeal should the Court grant the Motion to Defer Consideration of Jurisdictional Statement in the related appeal.

Respectfully submitted,

VIRGINIA STATE BAR
JAMES C. ROBERTS, President of
the Virginia State Bar

ALEX MAYO, Chairman of the
Legal Ethics Committee,
Virginia State Bar
Appellees

By /s/ JOHN S. BATTLE, JR.

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